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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/787,266
Inventor(s) : Guy Hubert Sephane Sylvain Culeron, et al.
Filed : February 26, 2004
Art Unit : 1751
Examiner : Lorna M. Douyon
Docket No. : AA-615M2
Confirmation No. : 5154
Customer No. : 27752

Title : FOAM-GENERATING KIT CONTAINING A FOAM-GENERATING
DISPENSER AND A COMPOSITION CONTAINING A HIGH VISCOSITY
COMPOSITION

DECLARATION UNDER 37 CFR 1.132

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, Howard D. Hutton, III, hereby declare the following:

1. THAT, I am a named-co-inventors of the above-identified patent application;
2. THAT: I received a B.S. degree in Chemistry from the Edinboro University of Pennsylvania at Edinboro, Pennsylvania in 1988, and a PhD in Chemistry from The Ohio State University in 1993. I am employed as a Principal Scientist by The Procter & Gamble Company, and have been working at Procter & Gamble for 13 years. My work in graduate school and at Procter & Gamble focused on surface and physical chemistries. I published a number of papers in graduate school relating to these topics.
3. I have reviewed the Office Action dated December 8, 2005, and U.S. Patent 5,858,954 issued to Balzer. Specifically, the following statement in the Office Action:

"* * * it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect one form of the composition of Fowler (US 5,635,469) to be in microemulsion form because in col. 13, lines 16-21, Fowler teaches that the composition will preferably being the form of a stable single phase, most preferable a true solution, however, the composition can also be in the form of stable emulsion, and considering the composition of Folwer which comprises hydrocarbon, water and surfactant, the form of the compositions would vary from true solutions to emulsions, and therefore would have also encompassed microemulsions in view of the teachings of Balzer (US 5,858,954) that microemulsions often give the impression of being true solutions."

4. It is my opinion that there are unique distinctions between the compositions referred to Fowler and those cited in our application. Further, it is not obvious from the cited art to apply the very unique and distinct oil dissolution benefits of a microemulsion with a foam dispenser which maximizes the concentration at which the consumer will use the microemulsion and therefore maximizes the microemulsion benefits.

First, the Examiner is misunderstanding the distinction between a true solution, an emulsion and a microemulsion. While it may be true that microemulsions are *mistaken* for true solutions based on visible appearance alone, they are very easily distinguished by those skilled in the art. Microemulsions, unlike true solutions, have distinct domains of oil dispersed throughout the solution - they are not a single phase. While the oil domains in microemulsions are small enough to be perceived as being clear in appearance, the oil domains are present, significantly affect how much oil can be incorporated into the solution, and significantly affect the physical parameters of the solution (interfacial tension, viscosity, etc.). Emulsions, on the other hand, have oil domains like a microemulsion, but are much larger (greater than 10x larger) resulting in visible appearance of the oil phase in the emulsion.

A protomicroemulsion forms a microemulsion when diluted from about 10 % to about 99 % with water. A therefore is also distinct from a true solution and emulsion as discussed for microemulsions.

Secondly, our invention requires a combination of the microemulsion or protomicroemulsion and foam dispenser. In my opinion this combination it is not taught or suggested that the foam dispenser will work with a microemulsion or protomicroemulsion to provide greater benefits than the microemulsion or protomicroemulsion alone or the foam dispenser with true solutions or emulsions. The microemulsion or protomicroemulsion benefit is dependent on the product maintaining a microemulsion phase. This phase will change, upon consumer use and dilution (water added during cleaning process). To minimize water added in the process, and maximize the microemulsion benefit, we have provided the consumer with a foam dispenser which allows them to generate foam without adding as much water as current habits/typical dispensers. Net, the unique combination of foam dispenser and microemulsion or protomicroemulsion provides an unexpected synergistic benefit.

I, Howard D. Hutton, III, declare all statements made herein are true to the best of my knowledge, or if made upon information and belief, are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further Declarants sayeth not.


Howard D. Hutton, III

Date: 29 March 2006